

REMARKS

Claims 1, 3, 5-15, 17, 20-24, and 27-34 remain in the application including independent claims 1, 10, 17, 20, and 22. Claims 2, 4, 16, 18-19, and 25-26 have been cancelled. The examiner has indicated that claims 31 and 34 are allowable.

The changes to the specification and claims 1, 8, 9, and 17 are not related to any rejections set forth in the subject official action. These changes strictly address antecedent basis issues.

Figure 5 has been revised to eliminate a duplicate reference number "84". Reference number "84" is now "83" in Figure 5. Corrected drawings are submitted herewith. Further, the specification has been revised to reflect the numbering revision.

Claim 20 stands rejected under 35 U.S.C 102(e) as being unpatentable over US 6005957 to Meeks. Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Meeks in view of AAPA (Applicant's Admitted Prior Art). Claim 20 requires the following steps: providing a generic speaker housing common to multiple vehicle types, custom forming a bracket assembly for each different vehicle type, joining the bracket assembly to the housing, and attaching the bracket assembly to a vehicle structure to mount the speaker housing to a vehicle.

The examiner argues that Meeks teaches a speaker housing 30, 50 that is common to many vehicles, a mounting apparatus 40, 34, 46 that includes a bracket that is used in various applications, which inherently indicates that the mounting apparatus is custom formed to different vehicles. Applicant strongly disagrees with this characterization of Meeks.

Meeks is directed to improving the mounting interface between the speaker 50 and the speaker housing 30. Applicant's claims are directed toward the mounting interface between the speaker housing and the vehicle. Further, there is no disclosure in Meeks that the speaker

housing 30 is a generic speaker housing that is common to multiple vehicle types. In fact Meeks implies that the speaker housing 30 actually takes on many different shapes and sizes. "It should be noted that while the mounting apparatus of the present invention is disclosed in conjunction with second and fourth order enclosures, the concepts of the present invention are also applicable to a variety of enclosures having a fixed speaker mounting plate 34 and fixed mounting boss 40 which are separated by a fixed distance." Column 6, lines 11-17. Thus, Meeks seems to be teaching standardized mounting hardware with varying enclosure (speaker housing) sizes and shapes. This is the opposite of what Applicant is claiming. Meeks specifically states that second order enclosures, fourth order enclosures, and a variety of other enclosures (all of which have different enclosure sizes and shapes) can utilize the speaker to speaker housing mounting structure set forth in Meeks. See Column 1, lines 30-55 and Column 6, lines 11-17.

Thus, Meeks does not disclose the step of providing a generic speaker housing common to multiple vehicle types. Meeks also does not disclose custom forming a bracket assembly for each different vehicle type, joining the bracket assembly to the housing, and attaching the bracket assembly to a vehicle structure to mount the speaker housing to a vehicle. Meeks discloses hangers 46 that are used to suspend the speaker housing 30 underneath the vehicle under carriage 48. There is no disclosure indicating that these hangers 46 are joined to the speaker housing 30 and there certainly is no disclosure that these hangers are custom formed for each different vehicle type.

For the many reasons set forth above, Meeks does not anticipate claim 20. For similar reasons, Meeks does not anticipate claim 21.

Claims 1, 3, 5-9, and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham (previously cited by examiner) in view of new reference US4638965 to DeBruine and further in view of AAPA. Claim 11 also appears to be rejected under this combination, however, the arguments with regard to claim 11 are set forth with the 35 U.S.C. 103(a) rejections of claims 10, 12-15 and 32 based on the combination of Everingham and DeBruine alone.

Claim 1 requires a speaker housing, an air cleaner housing positioned between the speaker housing and an engine, and a plurality of brackets for mounting the housing to a vehicle structure wherein at least one bracket is joined to the speaker housing and at least one bracket is joined to the air cleaner housing.

The examiner argues that Everingham discloses a speaker housing 10 with a speaker 30 mounted in the speaker housing 10 and an air cleaner housing 20. First, claim 1 requires the air cleaner housing to be positioned between the speaker housing and an engine. The examiner argues that air induction component 20 in Everingham is the air cleaner housing. Air induction component 20 is clearly not positioned between the speaker housing 10 and the engine 14. As shown in Figure 1, air induction component 20 is positioned on an end of the speaker housing 10 opposite from the engine 14, i.e. the speaker housing 10 is between the engine 14 and the air induction component 20.

The examiner argues that it would be obvious to change the position of the components to optimize performance of the system. Applicant disagrees. The examiner has provided absolutely no support for this assertion, i.e. the examiner has provided no evidence of prior art teachings that state moving the air cleaner to the claimed position "optimizes" system performance. It is impermissible to engage in a hindsight reconstruction of the claimed invention, using applicant's structure as a template and selecting elements from the references to fill the gaps. The references

themselves must provide some teaching whereby applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). Applicant respectfully requests that the examiner provide a reference that shows the configuration set forth in the claims, as the only showing of such a configuration is in the subject application.

Second, claim 1 requires a plurality of brackets joined to the speaker and air cleaning housings. The examiner admits that Everingham does not disclose the use of a plurality of brackets. The examiner argues that DeBruine teaches a plurality of brackets that are joined to an exhaust pipe. Applicant disagrees. DeBruine teaches the use of a single bracket assembly and not a plurality of brackets. Further, the bracket assembly in DeBruine is not joined to the pipe assembly. The bracket assembly is clamped around the pipe and allows for adjustment in a plurality of directions. Claim 1 requires the distal portions of the brackets to be joined with the air cleaner or speaker housings. Finally, there is no teaching in either reference of a bracket that is specifically joined to a speaker housing in combination with a bracket that is specifically joined to an air cleaner housing where the brackets mount the respective housings to a vehicle structure. Thus, the combination of references does not disclose, suggest, or teach the features of claim 1. For similar reasons claim 17 is also allowable over the combination.

Third, there is no motivation or suggestion to modify Everingham with DeBruine. The examiner argues that it would be obvious to provide Everingham with the bracket of DeBruine for the purpose of providing efficient support and stability for mounting the speaker housing to a vehicle. Applicant disagrees. The only modification based on the combination of Everingham and DeBruine that makes sense would be to use the clamping bracket assembly of DeBruine in Everingham. The DeBruine clamping assembly is clearly directed to be used with a small diameter

component, such as an exhaust pipe. This type of clamping assembly would be very awkward to use in the speaker housing configuration shown in Everingham. Further, there is no teaching in DeBruine, and the examiner has pointed to no such teaching in DeBruine or the prior art, that indicates that the DeBruine clamping assembly would be adequate for a speaker housing and air cleaner housing combination as claimed by Applicant.

Finally, the combination of references does not disclose, suggest, or teach the features of the dependent claims. Claim 5 requires that the distal portions of the bracket be welded to the speaker and air cleaner housing. The examiner argues that DeBruine teaches this welding configuration at column 4, lines 35-38. Applicant disagrees. As set forth in DeBruine, "... still other embodiments may include a formed rod 22 that is adapted to be mounted to the vehicle 14 by welding or the like without a rubber insulator." Column 4, lines 35-38. Thus, DeBruine teaches welding the bracket to the vehicle structure, not welding the bracket to the component itself.

Claim 6 requires the distal portions of the bracket to be fastened to the housings. The bracket assembly in DeBruine is clamped around the pipe. The bracket is not fastened to the pipe itself. The fasteners fasten the rod 22 to support plate 26 and fasten the U-bolt 42 to the support plate 26. There is no teaching of fastening to a speaker housing.

Claim 7 requires that the distal portions be pre-formed and insert molded into the housings. There is no teaching of this in DeBruine. The examiner admits this and seems to rely on the teaching of welding of the bracket to a vehicle structure as being equivalent to performing and insert molding the brackets to the housings themselves. The examiner has provided no basis or support for this assertion.

Claim 8 requires the distal portions to be snap fit to the housing. Again, there is no teaching in any of the references of this configuration. Further, the examiner has pointed to no teaching and has provided no argumentative support as to why this configuration would be obvious.

Claim 9 requires that the plurality of brackets comprise a single bracket body having a plurality of leg mounts that extend between the housings and the vehicle structure. The examiner argues that DeBruine discloses a bracket that has a plurality of apertures that allow for lateral and longitudinal adjustment. This has absolutely no relevance to claim 9. The examiner relies on this irrelevant statement as the basis for an obviousness rejection. The examiner argues that based on the multiple apertures shown in DeBruine that it then “would have obvious [sic] to combine two or more brackets of such structure to comprise a single bracket comprising multiple legs for providing sufficient support of the length and weight capacity of the duct housing structure to the vehicle for the purposes of lessening vibrations. . . .” There is absolutely no support in DeBruine for the examiner’s assertion. DeBruine clearly teaches the use of a bracket having a single leg portion 22 extending between the pipe 12 and the vehicle 14. There is no teaching in DeBruine of a single bracket body having a plurality of leg mounts that extend between the vehicle structure and the housings as claimed by Applicant.

For the many reasons set forth above, the rejection of claims 1, 3, 5-9, 11, and 17 under 35 U.S.C. 103(a) based on the combination of Everingham, as modified by DeBruine, and as modified by AAPA is clearly improper and must be withdrawn.

Claims 10, 12-15, 22-24, 27-30, and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Everingham (previously cited by examiner) in view of new reference US4638965 to DeBruine. Claim 33 also appears to stand rejected under this combination, however, the

arguments with regard to claim 33 are set forth with the 35 U.S.C. 103(a) rejection of claim 21 based on the combination of Meeks and AAPA.

Claim 10 requires the following steps: providing a generic speaker housing common to multiple vehicle types, providing a bracket assembly including a plurality of bracket portions with each bracket portion having a first end portion and a distal portion, joining the distal portions to the speaker housing, and attaching the first end portions to a vehicle structure.

The examiner admits that neither reference teaches the speaker housing being common to multiple vehicle types and simply takes Official Notice that generic speaker housings are well known in the art. Applicant traverses the examiner's official notice and requests that the examiner cite a reference that shows this feature. Further, as set forth in the subject application, generic speaker housings are not well known in the art. "The size and shape of the air duct and speaker housing varies dependent upon the vehicle type and application, which leads to part proliferation and increased costs." Page 1, line 21 through page 2, line 1.

For the reasons set forth above with regard to claims 1 and 17, DeBruine does not teach joining bracket portions to a speaker housing. Further, for the reasons set forth above, there is no reason to modify Everingham with DeBruine. Thus, the rejection of claim 10 is improper and must be withdrawn. For similar reasons, the rejection of claims 22-24 and 32-33 is also improper.

For the reasons set forth above with regard to claims 5-8, DeBruine does not disclose, suggest, or teach the features of claims 12-15 or 27-30.

Thus, Applicant believes all claims are now in condition for allowance and an indication of such is requested. Applicant believes no additional fees are due, however, the Commissioner



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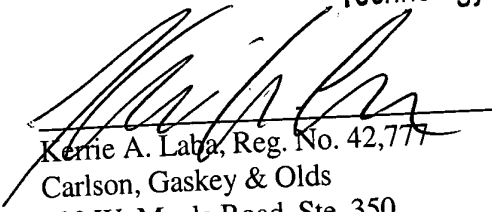
is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

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Respectfully submitted,

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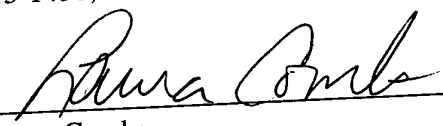

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Dated: April 30, 2004

CERTIFICATE OF MAIL

I hereby certify that the enclosed Response is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30 day of April, 2004.


Laura Combs

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